

**AMENDMENT NO. 3
TO THE AGREEMENT BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
MORELAND TEMPORARY SERVICES, a division of
MACIAS, GINI & O'CONNELL, LLP**

This agreement ("Amendment No. 3") is made and entered into on this ____ day of _____, 2008, ("Effective Date") by and between the City of Santa Clara, California, a chartered California municipal corporation, with its principal place of business located at 1500 Warburton Avenue, Santa Clara, California 95050 ("City") and Moreland Temporary Services, a division of Macias, Gini & O'Connell, LLP, a California company with its principal place of business located at 1201 Dove Street, Suite 680, Newport Beach, CA 92660 ("Contractor"). Contractor and City may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Amendment No. 3."

RECITALS

- A. The Parties previously entered into an agreement entitled "Agreement for Services by and between the City of Santa Clara, California and Moreland & Associates, Inc., dated February 7, 2008 (the "Original Agreement"); and
- B. The Parties previously entered into Amendment No. 1 to the Original Agreement for the purpose of having Contractor provide specialized services as needed and requested by the City, and entered into Amendment No. 1 on April 15, 2008 to increase the total contract amount to \$110,000 and extend the contract date to June 30, 2008.
- C. The Parties previously entered into Amendment No. 2 to the Original Agreement for purpose of paying mileage at the effective IRS rate, and for the purpose of extending the Original Agreement for a longer period of time, through March 31, 2008.
- D. The Parties now wish to amend the Original Agreement through Amendment No. 3 to provide the same services for a longer period of time, through June 30, 2009, and to increase the total contract amount to \$200,000.

In consideration of the above Recitals and the following mutual covenants and obligations, the Parties agree as follows:

AGREEMENT PROVISIONS

- 1. That paragraph number A of Section 4 of the Original Agreement, entitled "Compensation and Payment to Agency" is hereby amended to read as follows:

In consideration for Agency's complete performance of the Services, City shall pay Agency for all Services rendered in accordance with the rate per hour for its employees as outlined in **Exhibit B** entitled "Fee Schedule." Each Agency employee assigned by Agency to work at City shall submit a timesheet to the Department Head or assigned supervisor for verification of the hours worked by each Agency employee. The payments

made by City to Agency under this Agreement will be the amounts charged for Services provided and billed by Agency, subject to verification by City, pursuant to the hourly rates set forth in the schedule attached as **Exhibit B**. Unless specifically provided otherwise, the fees and charges listed in **Exhibit B** are intended to be all-inclusive and reflect all fees charged and expenses incurred by Agency, including, but not limited to, insurance expenses, travel expenses, costs of preparation of documents, applicable taxes, overtime, duplicating expense, telephone expense, computer time, attendance at meetings, overhead, etc. In no event shall the amount billed to City by Agency for services under this Agreement exceed \$200,000 in total, subject to budget appropriations.

2. That Section 5 of the Original Agreement, entitled "Term of Agreement" is hereby amended to read as follows:

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of the Agreement shall begin on the Effective Date of the Agreement and terminate on June 30, 2009.

3. All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 3 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 3, the provisions of this Amendment No. 3 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 3 as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Amendment No. 3 shall become operative on the Effective Date first set forth above.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

HELENE L. LEICHTER
City Attorney

JENNIFER SPARACINO
City Manager

ATTEST:

ROD DIRIDON, JR.
City Clerk

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Facsimile: (408) 241-6771

"City"

**Moreland Temporary Services,
a California corporation**

By: Denise D. Callahan

Name: Denise D. Callahan

Title: Partner

Address: 1201 Dove Street Suite 680

Newport Beach CA 92660

Telephone: (949)525-3192

Facsimile: (949)221-0035

"Contractor"

AGREEMENT FOR SERVICES
by and between the
CITY OF SANTA CLARA, CALIFORNIA
and
MORELAND & ASSOCIATES, INC.

EXHIBIT B

FEE SCHEDULE

1. Pay Rates: \$100.00 per hour plus mileage at the effective IRS rate per mile.
2. Overtime: \$150.00 per hour plus mileage at the effective IRS rate per mile.

The City of Santa Clara has certain departments that recognize a modified work schedule called "Golden Friday" schedule. This schedule has been agreed upon between the employee labor contract group and the City of Santa Clara. This program consists of eight, nine-hour workdays and one, eight-hour workday per bi-weekly pay period, without accruing overtime pay. As stated in a memorandum of understanding, the Street, Water and Sewer, and Traffic Engineering divisions recognize this schedule.

State labor laws mandate that any employee working more than eight hours in any given day or more than forty hours in any given work week, must be compensated at 1.5 times their standard hourly pay rate for any hours in excess of these standards. The City of Santa Clara is exempted from these labor laws governing their pay schedules under charter city laws. Due to these laws, temporary employees placed in departments that recognize this schedule program, are not exempted from accruing overtime pay, because they are employees of the agency representing them, not the City of Santa Clara. Any of these departments requiring the services of a temporary employee from this Agency, would be required to pay overtime in accordance with applicable State and Federal laws.

3. Conversion Fees and Exceptions.

If City elects to hire one of Agency's employees, either as full time regular City employee or as an as needed temporary employee, City shall pay a one-time conversion fee of \$12,500.00 as a fee to the Agency. However, Agency shall not waive this conversion fee if the Agency employee hired by the City has worked on an assignment at the City for more than ninety (90) days.

4. Fee Cap.

In no event shall the amount billed to City by Agency for services under this Agreement exceed \$200,000.00 dollars, subject to budget appropriations.

5. Administrative Fee.

For Agency employees provided to City, the administrative fee charged for employees recruited by Moreland & Associates, Inc. will be \$12,500.00 and for employees the City requests to be placed on the payroll will be \$12,500.00.